



DEPARTMENT OF COMMERCE

International Trade Administration

[A-351-842]

Certain Uncoated Paper from Brazil: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order for Uncoated Paper Rolls

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that imports of certain uncoated paper rolls from Brazil are circumventing the antidumping duty (AD) order on certain uncoated paper from Brazil. As a result, all imports of certain uncoated paper rolls from Brazil from Ahlstrom Brasil Ltd. (Ahlstrom) will be subject to suspension of liquidation on or after October 18, 2019. All remaining imports of certain uncoated paper rolls from Brazil will be subject to suspension of liquidation on or after the date of publication of this preliminary determination. Commerce is also imposing a certification requirement. We invite interested parties to comment on this preliminary determination.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Jasun Moy, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-8194.

SUPPLEMENTARY INFORMATION:

Background

On October 18, 2019, Commerce initiated an anti-circumvention inquiry to determine whether imports of certain uncoated paper rolls that are further processed into uncoated paper

sheets in the United States¹ are circumventing the *Order* on certain uncoated paper from Brazil.² Commerce issued questionnaires soliciting data on the quantity and value (Q&V) of exports of uncoated paper rolls to various companies. We received responses to these questionnaires from all parties except Ahlstrom. One company, Carvajal Pulpa y Papel S.A. (Carvajal), a Colombian producer of paper rolls, reported no shipments of uncoated paper rolls produced in Brazil to the United States.³

Subsequently, Commerce selected two companies, International Paper do Brasil Ltda (IP)/International Paper Exportadora Ltda (IPEX) (collectively, IP),⁴ and Suzano S.A. (Suzano), and required them to respond to a full questionnaire relating to their export activity with respect to uncoated paper rolls.⁵ We received questionnaire and supplemental questionnaire responses from IP and Suzano, as well as responses from three U.S. companies. For a complete description of the events that followed the initiation of this inquiry, *see* the Preliminary Decision Memorandum.⁶

¹ See *Certain Uncoated Paper Products from Australia, Brazil, the People's Republic of China, and Indonesia: Initiation of Anti-Circumvention Inquiry of Antidumping and Countervailing Duty Orders*, 84 FR 55915 (October 18, 2019) (*Initiation Notice*).

² See *Certain Uncoated Paper from Australia, Brazil, Indonesia, the People's Republic of China, and Portugal: Amended Final Affirmative Antidumping Determinations for Brazil and Indonesia and Antidumping Duty Orders*, 81 FR 11174 (March 3, 2016) (*Order*).

³ In its Q&V questionnaire response, Carvajal reported that it exported rolls produced in Colombia through Brazil. See Carvajal's Letter, "Anticircumvention Inquiry of the Antidumping Duty Orders on Uncoated Paper Sheets from Australia, Brazil, the People's Republic of China, and Indonesia, and the Countervailing Duty Orders on Uncoated Paper Sheets from the People's Republic of China and Indonesia: Quantity and Value Questionnaire," dated November 20, 2019 (Carvajal Q&V Response).

⁴ In the less-than-fair-value investigation, we determined that IP and IPEX constituted a single entity. Because no interested party submitted comments on this issue, and in the absence of any new information regarding this finding, Commerce is continuing to find that IP and IPEX are affiliated, pursuant to sections 771(33)(E) and (F) of the Act and are a single entity, pursuant to 19 CFR 351.401(f). See *Certain Uncoated Paper from Brazil: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination*, 80 FR 52029 (August 27, 2015), and accompanying Preliminary Decision Memorandum at "Affiliation Determinations," unchanged in *Certain Uncoated Paper from Brazil: Final Determination of Sales at Less Than Fair Value*, 81 FR 3115 (January 20, 2016).

⁵ See Memorandum, "Anti-Circumvention Inquiry of the Antidumping Duty Order on Certain Uncoated Paper from Brazil: Respondent Selection," dated May 18, 2020. IP and Suzano are herein after also referred to as the "mandatory respondents" or the "Brazilian producers and/or exporters."

⁶ See Memorandum, "Preliminary Decision Memorandum for Anti-Circumvention Inquiry of the Antidumping Duty Order on Certain Uncoated Paper from Brazil: Uncoated Paper Rolls," dated concurrently, and hereby adopted, with this notice (Preliminary Decision Memorandum).

Scope of the *Order*

The merchandise subject to this *Order* includes uncoated paper in sheet form; weighing at least 40 grams per square meter but not more than 150 grams per square meter; that either is a white paper with a GE brightness level of 85 or higher or is a colored paper; whether or not surface-decorated, printed (except as described below), embossed, perforated, or punched; irrespective of the smoothness of the surface; and irrespective of dimensions (Certain Uncoated Paper). For a full description of the scope, *see* the Preliminary Decision Memorandum.

Merchandise Subject to the Anti-Circumvention Inquiries

This anti-circumvention inquiry covers certain uncoated paper rolls that are commonly, but not exclusively, known as “sheeter rolls,” from Brazil that are further processed in the United States into individual sheets of uncoated paper that would be subject to the *Order* (*i.e.*, paper that weighs at least 40 grams per square meter but not more than 150 grams per square meter; and that either is a white paper with a GE brightness level of 83 +/-1% or higher or is a colored paper (as defined in the “Scope” section of the Preliminary Decision Memorandum), except as noted below. The uncoated paper rolls covered by this inquiry are able to be converted into sheets of uncoated paper using specialized cutting machinery prior to printing, and are typically, but not exclusively, between 52 and 103 inches wide and 50 inches in diameter. For clarity, we herein refer to “subject-paper rolls” when referencing the certain uncoated paper rolls that may be converted into subject merchandise. Subject-paper rolls are classified under HTSUS category 4802.55.⁷

Certain importers of the subject-paper rolls that will not be converted into subject merchandise may certify that the rolls will not be further processed into subject merchandise covered by the scope of the *Order*. Failure to comply with the requisite certification requirement may result in the merchandise being found subject to AD duties.

⁷ *See Initiation Notice*, 84 FR at 55917.

Methodology

Commerce made this preliminary finding of circumvention in accordance with section 781(a) of the Tariff Act of 1930, as amended (the Act) and 19 CFR 351.225(g). We relied on information placed on the record by the petitioners;⁸ by IP and Suzano; and by Colonial Press International, Inc., Company B, and Perez Trading Company (collectively, U.S. companies). Further, because Ahlstrom did not cooperate by failing to respond to the best of its ability to Commerce's requests for information, we have used adverse inferences when selecting from among the facts otherwise available on the record for certain aspects of this preliminary determination, pursuant to sections 776(a) and (b) of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content. A list of the topics discussed in the Preliminary Decision Memorandum is attached at Appendix I to this notice.

⁸ The petitioners are Domtar Corporation, Packaging Corporation of America, North Pacific Paper Company, Finch Paper LLC, and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union.

Affirmative Preliminary Determination of Circumvention

Based on our analysis, as detailed in the Preliminary Decision Memorandum, we preliminarily find, pursuant to section 781(a) of the Act, that imports from Brazil of uncoated paper rolls that meet the description of inquiry merchandise above (*i.e.*, subject-paper rolls) that are further processed in the United States into subject merchandise are circumventing the *Order*.

We also preliminarily determine that Carvajal and IP did not export subject-paper rolls from Brazil to the United States during the period of inquiry.⁹

To administer this affirmative circumvention determination, Commerce is requiring that importers of certain paper rolls from Brazil that otherwise match the physical description of subject-paper rolls and will not be further processed into uncoated paper sheets subject to the *Order* certify that the merchandise will not be further processed into subject uncoated paper sheets. Importers of such merchandise will be required to certify and maintain their certifications and supporting documentation to provide to U.S. Customs and Border Protection (CBP) and/or Commerce upon request.¹⁰ Properly certified entries are not subject to AD duties under the *Order*. Exemption from AD duties under the *Order* is permitted only if the certification and documentation requirements specified in Appendices II and III are met.

Entries of subject-paper rolls produced and/or exported by Ahlstrom are not eligible for certification.

Suspension of Liquidation

In accordance with 19 CFR 351.225(l)(2), for entries of subject-paper rolls that were produced and/or exported by Ahlstrom (*i.e.*, the non-responsive company), Commerce will instruct CBP to suspend liquidation of subject-paper rolls (as defined in the “Merchandise Subject to the Anti-Circumvention Inquiry” section above) from Brazil that are entered, or

⁹ The period for this inquiry examines the time period starting in the month the initiation of the underlying *Order* was published, and ending four years later, *i.e.*, February 1, 2015, through February 28, 2019. For Carvajal, *see* Carvajal Q&V Response. For IP, *see* Memorandum, “Business Proprietary Memorandum for International Paper do Brasil Ltda and International Paper Exportadora Ltda,” dated concurrently with this memorandum.

¹⁰ The importer certification is provided at Appendix III.

withdrawn from warehouse, for consumption on or after October 18, 2019, the date of publication of the initiation of this anti-circumvention inquiry in the *Federal Register*.¹¹ For all other entries of subject-paper rolls, Commerce will instruct CBP to suspend liquidation of the subject-paper rolls from Brazil that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this preliminary determination.¹²

CBP shall require cash deposits in accordance with those rates prevailing at the time of entry, unless the importer can certify to CBP that the subject-paper rolls will not be further processed into uncoated paper sheets subject to the *Order* in the United States.¹³ In that latter instance, no cash deposit will be required. Subject-paper rolls meeting the physical characteristics described above, which are produced and/or exported by Ahlstrom, are not eligible for certification.

Public Comment

Interested parties may submit case briefs to Commerce no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the time limit for filing case briefs. Parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.¹⁴ Case and rebuttal briefs should be filed electronically via ACCESS.¹⁵

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after

¹¹ See Preliminary Decision Memorandum at “Use of Facts Available with an Adverse Inference”; see also *Anti-circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Preliminary Determination of Circumvention of the Antidumping Duty Order*, 63 FR 18364, 18366 (April 15, 1998), unchanged in *Anti-Circumvention Inquiry of the Antidumping Duty Order on Certain Pasta from Italy: Affirmative Final Determination of Circumvention of the Antidumping Duty Order*, 63 FR 54672, 54675-6 (October 13, 1998).

¹² See Preliminary Decision Memorandum at “Use of Facts Available with an Adverse Inference.”

¹³ See Appendix II for the certification requirements and Appendix III for the importer certification.

¹⁴ See 19 CFR 351.309(c)(2) and (d)(2).

¹⁵ See 19 CFR 351.303.

the date of publication of this notice.¹⁶ Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.¹⁷

Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information, until further notice.¹⁸

Notification to the U.S. International Trade Commission (ITC)

Consistent with section 781(e) of the Act, Commerce is notifying the ITC of this affirmative preliminary determination to include the merchandise subject to this inquiry within the *AD Order* on uncoated paper from Brazil. Pursuant to section 781(e) of the Act, the ITC may request consultations concerning Commerce's proposed inclusion in the *Order* of the inquiry merchandise. These consultations must be concluded within 15 days after the date of the request. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days to provide written advice to Commerce.

Notification to Interested Parties

This notice is published in accordance with section 781(a) of the Act and 19 CFR 351.225(g).

Dated: January 19, 2021.

Jeffrey I. Kessler,
Assistant Secretary
for Enforcement and Compliance.

¹⁶ See 19 CFR 351.310(c).

¹⁷ *Id.*

¹⁸ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Order
- IV. Merchandise Subject to the Anti-Circumvention Inquiry
- V. Period of Anti-Circumvention Inquiry
- VI. Statutory Framework
- VII. Use of Facts Available with An Adverse Inference
- VIII. Anti-Circumvention Analysis
- IX. Country-Wide Determination
- X. Certification Requirement
- XI. Recommendation

Appendix II

Certification Requirements

If an importer imports subject-paper rolls from Brazil and claims that the subject-paper rolls will not be further processed into uncoated paper sheets covered by the *Order*, the importer is required to complete and maintain the importer certification attached hereto at Appendix III and all supporting documentation. Where the importer uses a broker to facilitate the entry process, it should obtain the entry summary number from the broker. Agents of the importer, such as brokers, however, are not permitted to make this certification on behalf of the importer.

All importers of subject-paper rolls from Brazil are eligible for the certification process detailed below, with the exception that entries of subject-paper rolls produced and/or exported by Ahlstrom Brasil Ltd. are ineligible for certification.

For entries of subject-paper rolls from Brazil entered, or withdrawn from warehouse, for consumption on or after the date this preliminary determination was signed for which the importer claims that the rolls will not be further processed into uncoated paper subject to the orders, the importer is required to meet the certification and documentation requirements detailed in the certifications in order for no suspension of liquidation and no cash deposit to be required for such entries. Among other requirements detailed below, importers are required to maintain a copy of any certifications, as well as sufficient documentation supporting the certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, production records, invoices, *etc.*) for the later of: (1) a period of five years from the date of entry; or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries.

For all such shipments and/or entries on or after the date of publication of this preliminary determination in the *Federal Register*, through 14 days after the date of publication of this preliminary determination in the *Federal Register*, for which certifications are required,

importers should complete the required certifications no later than 14 days after the date of publication of this preliminary determination in the *Federal Register*.

Accordingly, where appropriate, the relevant bullet in the certification should be edited to reflect that the certification was completed within the time frame specified above. For example, the bullet in the importer certification that reads: “This certification was completed at or prior to the time of Entry Summary,” could be edited as follows: “The imports referenced herein entered on {insert date}. This certification was completed on mm/dd/yyyy, within 14 days of the date of publication of the *Federal Register* notice of the preliminary determination of circumvention.”

For all shipments and/or entries made later than the 14th day after the date of publication of this preliminary determination in the *Federal Register* for which certifications are required, importers should complete the required certification at or prior to the date of Entry Summary.

Appendix III

Importer Certification

I hereby certify that:

(A) My name is {IMPORTING COMPANY OFFICIAL'S NAME} and I am an official of {NAME OF IMPORTING COMPANY}, located at {ADDRESS OF IMPORTING COMPANY}.

(B) I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of subject-paper rolls produced in Brazil that entered under entry summary number(s), identified below, and which are covered by this certification. Subject-paper rolls are defined as certain uncoated paper rolls commonly, but not exclusively, known as "sheeter rolls," (rolls with paper that weigh at least 40 grams per square meter but not more than 150 grams per square meter; and paper that either is a white paper with a GE brightness level of 83 +/-1% or higher or is a colored paper) that may be converted into subject merchandise. The uncoated paper rolls are typically, but not exclusively, between 52 and 103 inches wide and 50 inches in diameter. Subject-paper rolls are classified under HTSUS category 4802.55. "Direct personal knowledge" refers to facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the importation of the product (*e.g.*, the name of the exporter) in its records.

(C) If the importer is acting on behalf of the first U.S. customer, complete this paragraph, if not put "NA" at the end of this paragraph: The imported subject-paper rolls covered by this certification were imported by {NAME OF IMPORTING COMPANY} on behalf of {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER}.

(D) The imported subject-paper rolls covered by this certification were shipped to {NAME OF PARTY TO WHOM MERCHANDISE WAS FIRST SHIPPED IN THE UNITED STATES}, located at {ADDRESS OF SHIPMENT}.

(E) Select appropriate statement below:

☐ I have direct personal knowledge of the facts regarding the end-use of the imported product because my company is the end-user of the imported product covered by this certification and I certify that the imported subject-paper rolls will not be used to produce subject merchandise. "Direct personal knowledge" includes information contained within my company's books and records.

☐ I have personal knowledge of the facts regarding the end-use of the imported product because my company is not the end-user of the imported product covered by this certification. However, I have been able to contact the end-user of the imported product and confirm that it will not use this product to produce subject merchandise. The end-user of the imported product is {COMPANY NAME} located at {ADDRESS}. "Personal knowledge" includes facts obtained from another party (*e.g.*, correspondence received by the importer from the end-user of the product).

(F) The imported subject-paper rolls covered by this certification will not be further processed into uncoated paper sheets in the United States. (NOTE: For certifications related to entries made on or after the date of publication of the Preliminary Determination, and through 14 days

after the date of publication of the Preliminary Determination, the importer should replace “will not be further processed” with “were not further processed” in the certification, as necessary).

(G) This certification applies to the following entries (repeat this block as many times as necessary):

Entry Summary #:

Entry Summary Line Item #:

Foreign Seller:

Foreign Seller’s Address:

Foreign Seller’s Invoice #:

Foreign Seller’s Invoice Line Item #:

Producer:

Producer’s Address:

(H) I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, production records, invoices, *etc.*) for the later of: (1) a period of five years from the date of entry; or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries.

(I) I understand that {NAME OF IMPORTING COMPANY} is required to provide this certification and supporting records to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce), upon request by the respective agency.

(J) I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce.

(K) I understand that failure to maintain the required certifications, and/or failure to substantiate the claims made herein, and/or failure to allow CBP and/or Commerce to verify the claims made herein, may result in a *de facto* determination that all entries to which this certification applies are within the scope of the antidumping duty order on certain uncoated paper from Brazil. I understand that such finding will result in:

(i) suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met;

(ii) the requirement that the importer post applicable antidumping duty cash deposits (as appropriate) equal to the rates determined by Commerce; and

(iii) the revocation of {NAME OF IMPORTING COMPANY}’s privilege to certify future imports of subject-paper rolls from Brazil as not being imported for purposes of further processing into the United States into uncoated paper sheets.

(L) I understand that agents of the importer, such as brokers, are not permitted to make this certification. Where a broker or other party was used to facilitate the entry process, {NAME OF IMPORTING COMPANY} obtained the entry summary number and date of entry summary from that party.

(M) This certification was completed at or prior to the date of entry summary.

(N) I am aware that U.S. law (including, but not limited to, 18 U.S.C. section 1001) imposes criminal sanctions on individuals who knowingly and willfully make material false statements to the U.S. government.

Signature

{NAME OF COMPANY OFFICIAL}

{TITLE}

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